

## MARICOPA COUNTY BOARD OF HEALTH MEETING MINUTES

Monday, January 26, 2015

301 W. Jefferson Street, 10<sup>th</sup> Floor

Phoenix, Arizona 85003

Board of Supervisors Conference Room

Vice President Kip Steill called the meeting to order at 3:00 p.m.

### ROLL CALL:

#### Members Present:

Don Cassano  
Francisca Montoya  
Nedra Halley  
Kip Steill  
Dr. Michael Mills  
Andrew Kunasek

#### Members Excused:

Andrew Ingram  
Debra Baldauff

Ex-Officio: Bob England, M.D.

### CALL TO THE PUBLIC:

Mr. Steill announced it was time for a call to public and requested public comment forms for those who wanted to speak or who wanted to address any action items. The three public comment forms were given to Mr. Steill. He asked comments be limited to a few minutes so other agenda action items could be addressed.

Dr. John Middaugh reported he was a retired Public Health physician who recently moved to Phoenix and has been reaching out to his colleagues. He wanted to introduce himself to the Board as an advocate of Public Health through the Maricopa County Medical Society (MCMS). He currently sits on the Public Health Committee at MCMS. He's interested in reaching out to County and State health departments because the Committee is in the process of developing their agenda as an advocacy to Public Health. Dr. Middaugh said they're looking for topics that would be a win-win for everybody. He noted that there were certain things over the past year that he's been able to participate in such as prescription drug efforts to get a handle on overdoses through State and County colleagues.

One of his charges is to identify excellent medical education courses for physicians. They have a couple of candidates who will be reviewing them through the Public Health Committee and then they'll go to the Boards. This effort is to attempt to get more information circulated out into the community. He thanked members for their public service and recognized the strains put upon the Board of Health in certain matters.

In the matter of **Case ES-2014-003/Food Service Worker Certification** Mr. David Matthew announced that he represented the National Restaurant Association, and came to speak in support of the changes to Chapter 7 of the Maricopa County Environmental Health code being considered today. He reported the Association represents over 980,000 restaurants and 9,100 of those are located in Arizona.

The Association believes the proposed changes which allow food service worker (FSW) training and certification by accredited agencies and the requirement to accept the certification and training from other Arizona counties is a positive step forward in continuing to promote food safety in Maricopa County.

It's important the food safety culture is maintained and supported by extensive employee and managerial training. The proposed change to the regulations will go far in expanding the training; making it more accessible to restaurant employees.

Members of the Association, especially those who operate multiple restaurants in a single state or across multiple states, have a vested interest in ensuring their staff is trained and is certified. The goal of the governmental authorities should be in sync with making qualified training to all food service employees as easy as possible.

Many of their workforces have multiple jobs as they pursue the American dream and this change will eliminate the burden on the workforce on having to maintain multiple sets of credentials when they work in different restaurants across county lines.

Most multi-unit food service operators have extensive training programs. To be forced to modify their programs to accommodate municipal and county variations in training and credentialing is difficult and disruptive. It is much more effective and safer to have a single statewide requirement to adhere to for multi-unit providers.

He stressed that the proposed changes would ensure the quality of food safety training is not compromised by making sure all food handler training and certifications meet the American Society for Testing and Materials Standard (ASTMS). This is a positive step as well. He concluded that the National Restaurant Association is in support of the proposed changes.

Mr. Vernon Stout spoke in the matter of **Case ES-2014-003/Food Service Worker Certification**. Mr. Stout stated after nearly a year long open bid solicitation process; Maricopa County Environmental Services selected what they considered the highest quality training available in the industry in order to ensure public safety. Twenty-one months ago a contract was signed with StateFoodSafety.com to deliver those services ensuring every food handler is provided the agreed upon best training in the industry.

According to FoodSafety.gov, the Centers for Disease Control and Prevention, and even The European Union Parliament, "Most foodborne outbreaks are local". Because of this foodborne illness, outbreaks are oftentimes best handled by the local health departments. For this reason food safety training should be traceable locally.

Research recently completed by the Council of Hotel and Restaurant Trainers found the average food establishment employee receives four minutes of food safety training when they are hired as a new employee in areas where defined food handler training is not required by the health department. This includes areas where demonstration of knowledge is required and where active managerial control is implemented because managers simply don't have enough time to adequately train their employees.

Today, Mr. Stout spoke with twenty people who were about to eat at a Phoenix food establishment and asked the question, "What would you prefer when eating out, food safety training as determined and provided by the restaurant manager, or uniformed food safety training evaluated and provided by the Health Department"? Seventeen of the twenty chose the Health Department option. The feedback provided to the Board of Health (BOH) through the EROP process is skewed as most recent data came from friends of the Restaurant Association through canned responses. He noted it was interesting that the National Restaurant Association had no apparent issues with the Maricopa solicitation prior to them not being awarded the contract.

Finally, based on legal counsel, several counties in Arizona, such as Mohave County, have determined their counties can leave their food handler programs in place even with the new law. However, because Maricopa County has in place a more stringent food handler requirement than the newly enacted law, Arizona law allows for the county to continue to utilize its program rather than weaken the county rules or ordinance. Considering the Department of Public Health's mission statement of "To protect and promote the health and well-being of Maricopa County residents and visitors", he urged members not to enact this rule change as it does not protect the public as well as the currently implemented rule.

#### **ANNOUNCE RESIGNATIONS:**

Mr. Steill announced Colleen Wheeler had submitted her resignation to the Board effective December 16, 2014. Dr. Bryant Boyack also submitted his resignation to the Board on January 20, 2015.

#### **DISCUSSION/ACTION ITEMS**

- 1. Approval of Minutes:** Vice President Steill asked for a motion to approve the minutes from the BOH Meeting held on October 27, 2014. Motion was made by Mr. Don Cassano to approve the BOH minutes as presented. Motion was seconded by Ms. Nedra Halley and the motion passed unanimously.

- 2. Fee Waiver Applications**

**Ms. Jeannie Taylor**

*(See attached document-January 26, 2015BOH Fee Waiver Summary)*

Ms. Jeannie Taylor presented twenty-one (21) fee waivers for review and consideration of approval. There are twenty non-profit organizations and one sponsoring school district with completed fee waiver applications for consideration. A summary sheet document was provided.

Ms. Francisca Montoya noticed there were three applicants who are up for approval but the event has already taken place. She asked for an explanation on why organization's applications are not required to come before us prior to the event happening and why they're included in the packets after the occurrence.

Ms. Taylor responded that the BOH meets on a quarterly basis and it's all in the timing. Some of these applicants submit their permit shortly after the last BOH meeting and the event happens prior to the next BOH meeting. Ms. Montoya questioned if there was something else that could be done to eliminate this from happening. Mr. Steill stated this shouldn't be happening and asked what the requirement was for applicants. Ms. Taylor said applicants are required to submit their applications prior to the event.

Mr. Steven Goode answered that there isn't a timeline requirement placed on applicants except that the application has to be submitted prior to the event and that doesn't always coincide with the BOH meetings. He repeated that it was simply a timing issue. Mr. Cassano wondered what happens if the Board doesn't approve the waivers after the fact? Ms. Taylor responded that the applicants have already paid their permit fees. One way or another we have the opportunity to choose to refund the money they pay or keep what they pay. It's up to the department to make that determination. Ms. Taylor said she does ask that the applications be submitted two weeks prior to the BOH meeting so she can get the applications to the members in a timely manner. So they may have applied for the permit in that two week period. The majority of the applicants for special events do pay their permit when they come before the Board, they're asking for a refund of their permit fee.

**Motion to approve the 21 Fee Waiver applications was made by Ms. Halley, seconded by Mr. Cassano and all were in favor. Motion passed unanimously.**

### **3. Enhanced Regulatory Outreach Program (EROP)**

**Mr. Steven Goode**

Mr. Steill introduced and welcomed the new Director of Environmental Services, Steven Goode who replaced Mr. John Kolman.

Mr. Stephen Goode noted that he had one case to bring forth today.

**Case ES-2014-003/Food Service Worker Certification:** Mr. Goode introduced Michelle Hindman who works in government relations. Ms. Hindman was asked to provide some background information as to why the department is moving forward with this particular requirement.

Ms. Hindman shared that she serves as the liaison for Maricopa County and works in the Government Relations Department. She reported that HB2436, Food Handler Training Courses Certification, was introduced by Representative Shope and was passed by the legislature during the 2014 legislative session and signed into law by Governor Brewer in April 2014. HB2436 states if the County requires food handler training and certificates for employment in the food service industry those training courses must meet certain American Society for Testing and Materials Standard (ASTMS). The bill goes on to enumerate several topics these food handler training courses must address and allows the course to be offered by any means available including online.

The food handler training certificate training course must be completed within the time period required by the County and the certificate must be renewed as required by the County. Upon completion of an accredited food handler certificate training course, the County must issue an E-Certificate or Identification card required by that County to a person who has demonstrated successful completion of the course. County issued food handler certificates or identification cards are valid in any county that requires one until that person's certificate or identification card expires. The County is prohibited from limiting the number of times a person can attempt to complete a food handler certificate training course and if the County government provides food service and has an in-house food service training program, a certificate by that program is valid for food service provided for the County's facilities or operations.

Finally, food handler certificate training courses that are created by or approved by the County, or both, before the effective date of the fact do not meet the ASTMS are considered to be accredited for the purposes of this section. The bill became effective in late July 2014. In June, Representative Shope sent a letter to the Maricopa County Attorney's office for further clarifying the legislative intent behind this bill. He stated the primary reason for sponsoring this bill was to make food handler training courses more readily available to restaurants and workers and more importantly to allow more choices to entities that can offer such courses throughout Arizona. Regardless of which entity that offers the training, a County shall issue the proper certificate or card to anyone who completes such a course. Paragraph B of the bill specifically and purposely does not require the training to come from a certain provider.

Mr. Goode noted that since the approval of the Standard of the new rule, the department has enacted several procedures and he read through them. He also offered some data on research that was performed throughout the County but also through California and they found that California has done the same thing. They have a state-wide food service worker card. They have an open program in the same fashion that this particular Statute has been established. San Diego, Riverside, and San Bernardino Counties have progressed in the same manner as Maricopa County moving forward.

Mr. Goode said what hasn't been heard today is the fact that there is a current contract with StateFoodSafety and he wanted to speak on that particular issue. At the request of the department, the Office of Procurement issued a solicitation for a food service worker training in November 2012. This was awarded on June 5, 2013 and one of the Board members here served on that Board. The contract went from June 2013-June 2016. The Office of Procurement received a letter dated October 18, 2014 from Mr. Richard Hill who is a legal representative for StateFoodSafety. The reason why that particular letter was received was because the law changed and we made them aware that the department was going to comply with the law. In his letter Mr. Hill stated that the adopting implementation of the proposed rule to our code which permits individuals to obtain training from providers with other than StateFoodSafety would result in significant financial damages to his client. Mr. Hill also alleged the adoption of the rule would reduce the number of individuals trained under his contract by 91%.

The Office of Procurement in consultation with the Maricopa County Attorney's Office reviewed and responded to Mr. Hill's letter on October 30<sup>th</sup>, 2014 and the letter was included in the email members received. A brief summary of the County's position regarding StateFoodSafety's contract was that while the contract remained valid for the remaining base term of the agreement, is a requirements contract, as defined in paragraph 6.6.1 of the StateFoodSafety contract. Mr. Goode read that portion as follows-the contractor signifies an understanding and agreement by signing the document that this contract is a requirements contract. This contract does not guarantee purchases will be made minimum or maximum. This language was part of the signed contract. StateFoodSafety knowingly entered into the contract and acknowledged that it was a requirements contract and the County was not obliged or obligated to make any minimum or maximum purchases and therefore, adoption of the rule would not affect the existing agreement; meaning the contract would still be valid according to our legal team.

On November 17, 2014, the Office of Procurement received faxed copy of a letter from Mr. Hill dated November 17, 2014, with a hard copy subsequently received via FedEx on November 18<sup>th</sup>. In his letter Mr. Hill reiterated his position that the adoption of the proposed rule to the code would result in the County breaching their agreement with StateFoodSafety and requested adoption of the proposed rule be delayed until the expiration of the current contract. Since the Office of Procurement had already responded to Mr. Hill's contractual issue, they did not provide an additional response.

Lastly, Mr. Goode shared that the department received about two hundred and fifty (250) comments. Of those, two hundred and nine (209) were in favor of the proposed change. Ten (10) expressed opposition and three (3) had another type of opinion.

**Motion to recommend submission for Case ES-2014-003/Food Service Worker Certification to the BOS' for approval was made by Mr. Don Cassano, seconded by Dr. Michael Mills and motion was passed unanimously.**

## **Discussion Items:**

**Dr. Bob England**

(A copy of MCDPH's Second Quarter Report was included in the BOH materials)

- 1. Public Health Report:**
  - i. Human Resources**
  - ii. Communication**
  - iii. Infrastructure**
  - iv. Strategic Planning**
  - v. Programs**
  - vi. Disease Update**
  - vii. Future Topics**

Dr. Bob gave a brief update on the measles exposure happening locally. He reported Maricopa County Department of Public Health (MCDPH) has confirmed its second case of measles. He gave some details on how the disease was contracted and how it was exposed to a group of other people. The Department went into aggressive intervention over the weekend especially regarding the secondary case.

Measles is wildly infectious; MCDPH is recommending that all children who were exposed and have not had at least one dose of Measles, Mumps and Rubella (MMR) vaccine be excluded from school/daycare for the incubation period of twenty one (21) days. He also noted the Department is urging adults who might be susceptible to not go to work or if they do have to go out in public to wear a mask.

Dr. Bob noted symptoms typically appear seven (7) to twelve (12) days after exposure to measles but may take up to 21 days. Symptoms can begin with cough, runny nose, red, water eyes and sometimes a fever is present four (4) days before the rash starts but that's not always true. Some of the symptoms can be pretty mild at first and infection is about four (4) days before and after the rash starts. A person can be shedding virus eight (8) days before suspicions a person is sick. That's the reason for excluding children, rather than waiting for them to get sick or be symptomatic.

Flu is seeing some increase in the Emergency Room Department visits but it looks like we're hopefully getting near the peak. The vaccine match issue has complicated the messaging this year and unfortunately, everyone got the exact wrong message. In a year where the vaccine doesn't match well, it makes it more important, not less, for people, especially high risk, to get vaccinated.

Dr. Bob touched on Ebola and pointed out one of the pages in the quarterly report was dedicated to the issue. He acknowledged the excellent efforts of Dr. Rebecca Sunenshine, Jeanene Fowler and others in the Department and their "stellar" work and responses to the outbreak.

Dr. Bob reported MCDPH has been working for about a year and a half in preparation of the Super Bowl. Hundreds of hours have been dedicated to the preparation and planning by many multi-agencies coordinating efforts throughout the Valley. He gave a brief list of enhanced surveillance going on right now to detect upticks and patterns of things that people may be coming in with. Many hotels throughout the Valley are also involved in the surveillance process.

Dr. Bob announced the State Health Department closed its walk-in Vital Statistics Office. This closure has resulted in a couple of hundred or more extra walk-in clients per day. Most of the clients are showing up at the St. Mary's site because it's the closest physical one to ADHS. However, it's not very big and we're trying to find ways to drive more of them, if they're from the West Valley, to the further West Valley location that was recently opened.

Dr. Bob shared that the foreign travel vaccine clinic has been operating in the red lately and over the last few years; the availability of foreign travel vaccine has dramatically expanded because pharmacies got in the business and when they started having vaccination availability, many of them began carrying foreign travel vaccine as well as specialty clinics that sprouted up around the Valley. Our charges are not significantly lower than private sector and we don't take insurance. So there's really no incentive for people to use our services and we're no longer filling a gap in the community.

Dr. Bob announced the Department submitted its application for accreditation including all of the supplemental paperwork that was requested. We're awaiting our site visit which should take place sometime this spring, but no date has been set.

We're also doing increased relationship-joint projects with Correctional Health including a new position approved for a Behavioral Health Coordinator whose primary role is making sure that the system functions better. We're also doing joint grant projects that work closely together on opioid abuse and so forth. Earlier, we've been participating with ADHS on their opioid prescribing guidelines and pushing some education out in that regard.

Dr. Bob announced Max Porter is going to be moving over to Correctional Health temporarily. Mr. Porter will be on "loan" and will help work on some issues while he's there.

Dr. Bob addressed the Board vacancies and said Dr. Boyack did offer a replacement when he submitted his resignation. However, the process is vetted through the Clerk of the Board.

Dr. Bob announced Vicki Oonk is retiring and said recruitment efforts will begin shortly.

#### **ANNOUNCEMENTS AND CURRENT EVENTS**

- Next meeting is April 27, 2015

**ADJOURNMENT:** There being no further business, motion to adjourn the meeting was made by Ms. Montoya, seconded by Ms. Halley and motion was passed unanimously. The meeting was adjourned at 4:00 p.m.